



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

VALLEY REGIONAL OFFICE

4411 Early Road, P.O. Box 3000, Harrisonburg, Virginia 22801

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W. Tayloe Murphy, Jr.
Secretary of Natural Resources

Robert G. Burnley
Director

R. Bradley Chewning
Regional Director

STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION

ORDER BY CONSENT ISSUED TO

**O-N Minerals Chemstone Company
Clear Brook
Registration #: 80504**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1187, -1184, -1307(D), -1309, and -1316(C), between the State Air Pollution Control Board and O-N Minerals Chemstone Company (Chemstone), for the purpose of resolving certain alleged violations of environmental law and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. “Va. Code” means the Code of Virginia (1950), as amended.
2. “Board” means the State Air Pollution Control Board, a permanent citizens’ board of the Commonwealth of Virginia as described in Code §§ 10.1-1301 and 10.1-1184.
3. “Department” or “DEQ” means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. “Director” means the Director of the Department of Environmental Quality.
5. “Order” means this document, also known as a Consent Order, and incorporates the additional terms and conditions as set out in Appendix A to this document.

6. “VRO” means the Valley Regional Office of DEQ, located at 4411 Early Road, P.O. Box 3000, Harrisonburg, Virginia 22801.
7. “CFR” means Code of Federal Regulations.
8. “Chemstone” means O-N Minerals Chemstone Company, a Delaware corporation certified to do business in Virginia since August 1, 1984, and its affiliates, partners, subsidiaries, and parents.
9. “Facility” means Chemstone’s lime kiln facility located at 508 Quarry Lane, Clear Brook, Virginia 22624.

SECTION C: Findings of Facts and Conclusions of Law

1. Condition IX.C.3 of Chemstone’s Title V Operating Permit (effective November 30, 2001) required the submittal of a monitoring report, including all deviations from permit requirements, by September 1, 2004 (9 VAC 5-80-110 F). This report was received by the DEQ Valley Regional Office on March 3, 2005, with a cover letter dated March 2, 2005.
2. The report was submitted approximately six months late. A Notice of Violation was issued to Chemstone on April 19, 2005. DEQ compliance and enforcement representatives subsequently conferenced with Chemstone’s general manager to discuss the matter and address remedial measures. As a mitigating factor, Chemstone agreed to design and implement a comprehensive environmental management system (EMS) and to develop a compliance calendar system to avoid missing future report submission deadlines.

SECTION D: Agreement and Order

Accordingly the State Air Pollution Control Board, by virtue of the authority granted it pursuant to Va. Code §§ 10.1-1186(2), 10.1-1309, and 10.1-1316(C), orders Chemstone, and Chemstone voluntarily agrees to the following conditions in settlement of the violations cited in this Order:

1. Chemstone agrees to pay a civil charge of **\$720.00** within 30 days of the effective date of this Order. Payment must indicate that the civil charge is paid pursuant to this Order, and shall include Chemstone’s Federal Identification Number. Payment shall be by check, certified check, money order, or cashier’s check payable to **“Treasurer of the Commonwealth of Virginia”** and sent to:

**Receipts Control
Department of Environmental Quality
P. O. Box 10150
Richmond, Virginia 23240**

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Chemstone, for good cause shown by Chemstone, or on its own motion after notice to Chemstone and its opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified herein. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the Facility as may be authorized by law; or (3) taking subsequent action to enforce this Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, Chemstone admits to the allegations in Section C of this Order.
4. Chemstone consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Chemstone declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right of Chemstone to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Chemstone to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Chemstone shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Chemstone shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Chemstone shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

- a. the reasons for the delay or noncompliance;
- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

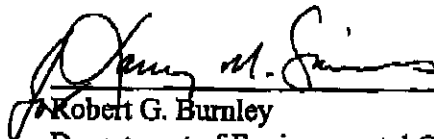
Failure to so notify the Regional Director within 24 hours of learning of any condition above, which Chemstone intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Chemstone. Notwithstanding the foregoing, Chemstone agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - a. Chemstone petitions the VRO Director to terminate the Order after it has completed all requirements of this Order, and the Regional Director determines that all requirements of the Order have been satisfactorily completed; or
 - b. The Director, his designee, or the Board may terminate this Order in his or its sole discretion upon 30 days written notice to Chemstone.

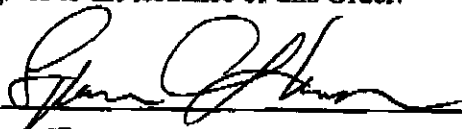
Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Chemstone from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. The undersigned representative of Chemstone certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Chemstone to this document. Any documents to be submitted pursuant to this Order shall be submitted by a responsible official of Chemstone.
13. By its signature below, Chemstone voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of June 23, 2005.


Robert G. Burnley
Department of Environmental Quality

O-N Minerals Chemstone Company voluntarily agrees to the issuance of this Order.

By: 
Date: June 14, 2005

Commonwealth of Virginia
City/County of SHENANDOAH

The foregoing document was signed and acknowledged before me this 14 day of
June, 2005, by Spencer Stinson, who is
(name)

General Manager of O-N Minerals Chemstone, on behalf of O-N Minerals Chemstone Company
(title)


Notary Public

My commission expires: 12/31/2006